IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 221 of 2003

Between:

Bh.Subramanyam S/o late Vasudev Dixitulu, aged

About 55 yrs, Occ: Sarishtedar, Senior Civil Judge

Court at Bobbili, resident of Bobbili, Vizianagaram District.

..... PETITIONER

AND

1. The District and Sessions Judge,

Vizianagaram, Vizianagaram District.

2. The Registrar (Administration), High

Court of A.P., Hyderabad.

3. Sri Pydithalli, Administrative Officer,

CBI Court, Visakhapatnam.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order, direction or writ more particularly the writ of Certiorari: (a) to call for the records relating to and connected with proceedings in order P.R.No.243 of 2000 dated 23.06.2001 of the District Judge (Disciplinary Authority) and also orders in R.O.C.No.142/2001,C 11/1, dated 05.09.2002 of the Appellate Authority and quash or set aside the same holding it as arbitrary, illegal and violative of Articles 14 and

16 of Constitution of India (b) Consequently, direct the respondent to give posting orders to the petitioner as Administrative Officer in terms of the promotion orders dated 17.08.2000 in place of third respondent with all consequential benefits.

Counsel for the Petitioner: MR.NUTY RAM MOHAN RAO

Counsel for the Respondents 1 to 3: MR.C.V.NAGARJUNA REDDY

The Court made the following:

ORDER:

The petitioner while working as Head Clerk in Additional District Court, Vizianagaram, was proceeded against departmentally for the following three charges: -

> "Charge No.1:- That you while working as Head Clerk in Additional Court, Vizianagaram, failed to hand over cheque petitions as per office order dated 08.06.2000 passed by the Additional District Judge, Vizianagaram and that you continued to retain the branch relating to the cheque petitions in M.O.Ps, in disregard of the said office order and it amounts to dereliction of duty and negligence and thereby you are liable for misconduct.
>
> Charge No.2:- That you, while working as Head Clerk in Additional District Court, Vizianagaram, tampered the Office Order passed by the Additional District Judge, Vizianagaram on 08.06.2000 and in tampering the Office Order by the way of interpolating the words in the in third line, permission in the fifth line and striking off the word and in the fourth tine and thereby you committed grave misconduct and thereby you are liable for grave misconduct for tempering the office order.
>
> Charge No.3:- That you, while working as Head Clerk in Additional District Court, Vizianagaram, put up misleading notes in disposed of M.O.Ps suggesting for withdrawal of past interest prior to the Award by the respective petitioners, which is contrary to the decision of the Supreme Court in THE GENERAL MANAGER, KERALA STATE ROAD TRANSPORT CORPORATION, TRIVANDRAM Vs. Mrs.SUSAMMA THOMAS case (1994 (1) ALT page 1 (S.C) and that you did the same with obvious motive of obtaining illegal gratification from the parties or their advocates and that you thereby committed misconduct."

Enquiry Officer was appointed on 22.01.2001, who submitted his report on 06.04.2001 finding the petitioner guilty of charges 1 and 2 and charge No.3 was held not proved. Copy of the enquiry report was furnished to the petitioner, who submitted his representation. The District Judge/Disciplinary authority accepted the findings on charge Nos.1 and 2 and imposed punishment of withholding of one increment with cumulative effect by his order dated 23.06.2001. Appeal was preferred on 15.10.2001 which was dismissed by the appellate authority on 05.09.2002. Challenge in this writ petition is to the order passed by the disciplinary authority as well as by the appellate authority.

The petitioner's grievance is that he had not tampered with the office order dated 08.06.2000. There was no fault of his and the findings on charge Nos.1 and 2 are not supported on the basis of evidence on record. In other words, what was urged before us by the learned counsel for the petitioner was that it is highly improbable that the petitioner would have carried out the interpolations in the office order dated 08.06.2000 after it was signed by the Presiding Officer. Learned counsel for the petitioner would like us to reappraise the entire evidence and come to a conclusion that interpolations were not done after the order had been signed by the Presiding Officer but were already there before signatures were put on the said office order by the Presiding Officer. In support of his submission, he wants us to critically examine the photo copy of the office order in the light of the attendant circumstances. This approach on the part of the learned counsel for the petitioner that on reappraisal of the evidence we should form another view from the material on record than the one arrived at by the Enquiry Officer and confirmed by the disciplinary authority is wholly impermissible. It was not shown to us that the view which the Enquiry Officer has taken and as confirmed by the Disciplinary authority is not the possible view which can be arrived at on appreciation of evidence. May be that two views are possible. That alone will not be sufficient for us to interfere with the disciplinary proceedings, especially when the view taken by the disciplinary

authority is the possible view which can be taken in the matter. The disciplinary authority took notice of the fact that there was absolutely no cross-examination of P.W-2-Presiding Officer when he stated as follows:-

> "In the month of June, 2000 after discussion with the then District Judge, Vizianagaram, I directed Bh.Subrahmanyam to place an office note before me for entrusting of Cheque Petitions and Permission Petitions to O.P.B.C. P.V.J.Varma of Additional District Court and accordingly he prepared an office order on 08.06.2000 and placed before me and I approved the note as it is " …. Thereupon I was called by the District Judge and asked why the petitions were pending with the Head Clerk. Then I informed to him that I have passed an office order directing the Head Clerk to entrust the Cheque petitions and Permission petitions to P.V.J.Varma. Thereupon the District Judge verified the office order book and then he found some corrections in the office order without my initials. I have stated before the District Judge, that the Office Note dated 08.06.2000 was altered subsequently."

To the aforementioned statement of M.Satyanarayana Murthy, Additional District and Sessions Judge there is no challenge made by the writ petitioner during the departmental proceedings. Rather the petitioner admitted that corrections are made by him in his hand. But his stand was that these were made before obtaining signatures of the officer and not after the signatures were put by the officer viz. P.W-2. In case one has to critically examine the order dated 08.06.2000 rather a view which legitimately could be taken would be that some one has interpolated the order subsequently otherwise with the interpolation, the order would not be clear. Interpolation has made the order slightly complicated and in the departmental proceedings, rightly it was held that interpolations were done by the petitioner deliberately with a view to retain the cheque petitions which were the basis for having conducted the entire search in his office when number of cheque petitions were found on his table unattended. The complaint was that the petitioner was collecting money and then releasing the cheque petitions. Having gone through

the finding recorded by the Enquiry Officer as affirmed by the disciplinary authority, we find no grounds for interference, in exercise of our writ jurisdiction, with the order passed imposing penalty upon the petitioner, which is only stoppage of one increment with cumulative effect.

The writ petition is accordingly dismissed.

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(DEVINDER GUPTA, CJ)

16.02.2005

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(B.SESHASAYANA REDDY, J)

DR

To

1. The District and Sessions Judge,

Vizianagaram, Vizianagaram District.

2. The Registrar (Administration), High

Court of A.P., Hyderabad.

3. Sri Pydithalli, Administrative Officer,

CBI Court, Visakhapatnam.

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